IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3318 OF 2000

1. News Television India Ltd.
A company registered under
The Companies Act, having its
Office at "The Master Piece",
Marol Naka, Andheri Kurla Road,
Andheri (E), Mumbai - 400 059.

2. Ravinath Menon
C/o. News Television India Ltd.,
"The Master Piece",
Marol Naka, Andheri Kurla
Road, Andheri (E), Mumbai - 400 059

3. Mr. Peter Mukherjea,
C/o. News Television India Ltd.,
"The Master Piece",
Marol Naka, Andheri Kurla Road,
Andheri (E), Mumbai - 400 059.

4. Sameer Nair
C/o. News Television India Ltd.,
"The Master Piece",
Marol Naka, Andheri Kurla
Road, Andheri (E), Mumbai-400 059.

5. Mr. Sumantra Datta,
C/o News Television India Ltd.,
"The Master Piece",
Marol Naka, Andheri Kurla
Road, Andheri (E), Mumbai-400 059. ...Petitioners.

V/s

1. Ashok D. Waghmare
Residing at Gaikwad Chawl,
Sanchi Vihar Sahar Village,
Tank Pakhadi, Andheri (E),
Mumbai - 400 059.

2. The State of Maharashtra ...Respondents.

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Mr. P.G. Sabnis for the petitioners.

None for respondent No.1.

Mr. S.S. Tatkare, APP for the State.

**CORAM: V.M. KANADE, J.**
**DATE: 31st January, 2006**

ORAL JUDGMENT:

1. Heard the learned Counsel for the applicant. None appears for the respondent though he is served.

2. The applicant is challenging the order of issuance of process by the Metropolitan Magistrate, 10th Court, Andheri, Mumbai dated 8/9/2000 in Criminal Case No. 144/S/2000. The petitioner No.1 is a Company incorporated under the provisions of Companies Act and is the media agent of the T.V. network which is based at Hongkong known as STAR T.V. net work which comprises of various Channels and the petitioner No.1 acquires, produces and exports Indian television programmes for STAR T.V. The petitioner No.1 collects revenue which is earned through advertisement on behalf of the STAR T.V. and also subscriptions for pay channels.

3. The respondent No.1 filed a complaint against the petitioners under the Bombay Prevention of Gambling Act, 1887 and Prize Competition Act, 1955 in which it was alleged that broadcasting of the programme "Kaun Banega Crorepati" by the petitioners is an offence punishable under sections 9, 10, 11 and 12 of the

Prize Competition Act, 1955 and under sections 4, 12 and 12A of the Bombay Prevention of Gambling Act, 1887 read with Sections 34 and 114 of the Indian Penal Code.

4. It is submitted by the learned Counsel appearing on behalf of the petitioners that there was a clear non-application of mind on the part of the Magistrate in issuing process without first ascertaining whether any offence had been committed by the accused and he submitted that the perusal of the complaint would disclose that even if the averments in the complaint were taken at their face value even then no offence under the said Acts could be said to have been made out. The learned Counsel has taken me through the complaint which has been filed by the respondent No.1 herein. It is alleged in the complaint that the complainant had watched the said programme repeatedly and it is alleged that the accused had been inducing the public at large that whoever answers 15 questions correctly, could win Rs 1 crore and, therefore, the accused were offering prize money in excess of the stipulated amount stated in the Prize Competition Act, 1955. It is further alleged that the accused had also contravened the provisions of the Bombay Prevention of Gambling Act, 1887.

5. In my view, the process issued by the learned Metropolitan Magistrate is liable to be quashed. It is a settled position in law that the provisions of the Bombay Prevention of Gambling Act, 1887 would not apply to any game of skill whenever played. It is difficult to accept the connection of the complainant that the petitioners have committed an offence under the Prize Competition Act, 1955. A perusal of the word "Prize Competition" which is defined under section 2(d) of the Prize Competition Act discloses that a prize competition is any competition where any prizes are offered for solution of any puzzle based upon the building up, arrangement, combination or permutation, of letters, words or figures. In other words, if any numerical, alphabetical figure is given and if any money or prize is offered for solving that puzzle such a competition would fall within the definition of the word "Prize Competition" as defined under section 2(d) of the said Act. The Supreme Court in the case of R.M.D. Chamarbaugwala & Anr. Vs. Union of India reported in **AIR 1957 SC 628** had an occasion to consider the scope of definition of the word "Prize Competition" as defined under the said Act and the Supreme Court held that any game which requires substantial degree of skill would not fall within the definition of the said word. In view of

the judgment of the Supreme Court and considering the facts in the present case, I am of the view that the programme "Kaun Banega Crorepati" would not fall within the definition of the word "Prize Competition" as defined under section 2(d) of the said Act and I am also of the view that the petitioners have also not contravened any of the provisions of the Bombay Prevention of Gambling Act as the programme "Kaun Banega Crorepati" is essentially based on giving answers to questions on various topics such as history, geography, sport, music, politics, cinema, science and technology etc.

6. In view of the said position in law on this point, therefore, the learned Magistrate clearly erred in issuing the process against the applicant. The issuance of process, therefore, in my view, is liable to be quashed and set aside under section 482 of the Cr.P.C. The Writ Petition, therefore, is allowed. The complaint which is filed by the respondent No.1 is quashed and set aside. Rule is made absolute in terms of prayer clause (a).

7. Criminal Application is accordingly disposed of.

V.M. KANADE, J.